

UNITED STATES OF AMERICA	*	CRIMINAL NO.: 08-273
v.	*	SECTION: "A"
EARL H. FAYARD JR.	*	
	*	*
	*	*

Should this matter have gone to trial, the Government would have proved, through the introduction of competent testimony and admissible tangible exhibits, the following facts, beyond a reasonable doubt, to support the allegations in the Bill of Information now pending against the defendant, Earl H. Fayard, Jr. The defendant has agreed to plead guilty to Count I of the Bill of Information charging him with making false, fictitious or fraudulent claims against an agency of the federal government in violation of Title 18, United States Code Section 287.

The defendant Earl H. Fayard, Jr. operated a family shrimp packing company, Ocean Springs Seafood Market, Inc. which was located in both Ocean Springs, Mississippi and Houma, Louisiana. Ocean Springs Seafood Market, Inc. was incorporated in the state of Louisiana and licensed to do business in the state of Louisiana. The Continued Dumping and Subsidy Offset Act of 2000 (CDSOA), 19 U.S.C. §1675(c) and 19 C.F.R. § 159.61 through 159.64 (hereinafter, “The

Byrd Amendment”) provided federally subsidized funds to United States seafood producers who competed with foreign imports. Between January 1, 2006 and June 6, 2007, Earl H. Fayard, Jr., submitted a false and fraudulent certification to United States Customs and Border Protection, a department and agency of the United States responsible for administering the Byrd Amendment distribution. The certification filed by Earl H. Fayard, Jr. on or about July 28, 2006 claimed qualifying expenses in the amount of \$8,544,483, however a part of those claimed expenses, totaling \$450,791.23 were false, fictitious and/or fraudulent. A certified copy of defendant’s July 28, 2006 application for Byrd Amendment funds would be offered as evidence at trial. Thereafter, defendant received a total distribution from U.S. Customs and Border Protection of \$659,252.38. The distribution of \$659,252.38 of certain anti dumping duties was determined solely by U.S. Customs and Border Protection after review of all certifications filed by eligible domestic producers. Copies of U.S. Treasury check no. 85319147 made payable to Ocean Springs Seafood Market Inc. in the amount of \$19,752.60 and U.S. Treasury check no. 34229797 made payable to Ocean Springs Seafood Market Inc. in the amount of \$639,499.78 would be offered as evidence at trial.

C.D. would testify that he was approached by Earl H. Fayard, Jr. in early 2006 and was shown an October 28, 2005 news article from Seafood.com News which stated in pertinent part: “accountability for the accuracy of claims for Byrd Amendment money is ‘virtually non-existent’... ‘companies making the largest claims generally received the largest payments’ and only one company has been audited...” Thereafter, C.D. was ask by Earl H. Fayard, Jr. to participate in a false invoicing scheme, which included fictitious promissory notes drafted by Earl H. Fayard, Jr. for monetary loans that never occurred. C.D. would also testify that Earl H. Fayard, Jr. manufactured false invoices for seafood purchases and environmental services from bogus

companies and that the defendant created documentation stating fictitious shrimp product were below standards which required an immediate refund from a sales transaction which never occurred. Copies of the phoney invoices numbered 963301 through 963311 would be offered as evidence at trial.

C.D. would testify that Earl H. Fayard, Jr. also created the fictitious environmental service company called REM Environmental Services and created a false invoice for various environmental services which were never provided. The false invoice was addressed to Ocean Spring Seafood, 500 Louisiana Street, Westwego, Louisiana for fictitious services such as labor, research equipment, sampling as well as water testing and treatment. NOAA'S National Marine Fisheries Service Office of Law Enforcement (OLE) Agent Steven Campbell would testify that REM Environmental Services was a false and fraudulent company that never provided environmental services to Ocean Spring Seafood.

On or about May 16, 2007, defendant filed an amended certification with U.S. Customs and Border Protection which omitted most of the false or fictitious expenses previously claimed. Earl H. Fayard, Jr. subsequently reimbursed the United States the amount of \$32,549.17 for the portion of the distribution which was based on most of the false or fictitious expenses. Because Earl H. Fayard, Jr. previously refunded the government \$32,549.17, the government and defendant agree that the restitution still outstanding for filing a certification with U.S. Customs and Border Protection based on the false invoicing scheme is not less than \$4,142.00.

Both the Government and the defendant, Earl H. Fayard, Jr. do hereby stipulate and agree that the above facts set forth a sufficient factual basis for the crime to which the defendant is pleading guilty and that the government would have proven these facts beyond a reasonable doubt at trial.

JULIA K. EVANS (D.C. BAR # 435461) (DATE)
ASSISTANT UNITED STATES ATTORNEY

DEFENDANT EARL H. FAYARD, JR (DATE)

EARL L. DENHAM, (DATE)
COUNSEL FOR DEFENDANT